

ONEIDA COUNTY PLANNING & ZONING
MAY 3, 2006
12:30 P.M. – COMMITTEE ROOM #2
1:00 P.M. REGULAR MEETING – COMMITTEE ROOM #2
2ND FLOOR, ONEIDA COUNTY COURT HOUSE

Members present: Chairman Bob Metropulos
Scott Holewinski
Frank Greb
Ted Cushing - absent
Larry Greschner

Department staff present: Karl Jennrich, Zoning Director
Pete Wegner, Assistant Zoning Director
Nadine Wilson, Land Use Specialist
Mary Bartelt, Typist III

Other County Staff: Larry Heath, Corporation Counsel

See Attached Guest List:

1. Call to order.

Chairman Metropulos called the meeting to order at 12:30 P.M., in accordance with the Wisconsin Open Meeting Law.

2. Discussion/decision to approve the agenda.

MOTION: (Scott Holewinski/Larry Greschner) to approve the May 3, 2006 agenda. With all members present voting “aye” motion carries.

It was noted that Ted Cushing was excused from the meeting.

3. It is anticipated that the Committee may meet in Closed Session pursuant to Wisconsin Statutes, Section 19.85 (1)(g), conferring with legal counsel concerning strategy to be adopted by the governmental body with respect to litigation in which it is or is likely to become involved. A roll call vote will be taken to go into closed session.

MOTION: (Larry Greschner/Frank Greb) to enter into Closed Session, Roll Call Vote: Scott Holewinski “aye”, Frank Greb “aye” Larry Greschner and Chair Metropulos “aye”, motion carries.

Time: 12:35 P.M.

4. A roll call vote will be taken to return to open session

MOTION: (Scott Holewinski/Frank Greb) to return to open session. Roll Call Vote: Scott Holewinski “aye”, Frank Greb “aye” Larry Greschner and Chair Metropulos “aye”, motion carries.

Time: 1:05 P.M.

For the record, the Committee conferred with legal counsel regarding possible litigation.

5. Discussion/decision to approve meeting minutes of March 29, 2006.

Postponed until May 17, 2006.

6. Discussion/decision concerning the appointment of vice chairman of the Planning & Zoning Committee.

MOTION: (Larry Greschner/Frank Greb) to appoint Scott Holewinski as Vice Chairman for the Planning & Zoning Committee. All “aye” on voice vote, motion carries.

7. Discussion/decision concerning a 3-month time extension to file a 3 lot CSM for Otto A Jahnke Jr., on property described as Gov’t Lot 4, Section 27, T39N, R6E, in the Town of Minocqua.

Kurt Bloss, Land Use Specialist, stated that a little extra time was needed because Mr. Jahnke was working on a road maintenance agreement with the Town of Minocqua.

MOTION: (Scott Holewinski/Frank Greb) to extend a three-month extension for the three lot CSM for Otto A. Jahnke Jr., Item #7 on today’s agenda. All “aye” on voice vote, motion carries.

8. Discussion/decision concerning a 9-month time extension to file Kenwood Terrace Condominium on property described as Lot 3, Gov’t Lot 7 and Part of Gov’t Lot 8, Section 9, T39N, R6E, in the Town of Minocqua.

Mr. Bloss stated that this was being requested because one of the adjoining property owners has filed claim to the lakebed underneath the property where proposed.

MOTION: (Larry Greschner/Scott Holewinski) to grant a nine-month extension for Kenwood Terrace Condominium, Item #8 on today’s agenda. All “aye” on voice vote, motion carries.

9. Discussion/decision concerning the preliminary condominium conversion as amended April 17, 2006 for Sue & Richard Heil’s existing resort for property described as Gov’t Lot 1, Section 7, T39N, R5E, and SE NE, Section 12, T39N, R4E, in the Town of Minocqua, PIN#’s MI 678-10, MI 1669-3, MI 1669-4, & MI 678-1.

Mr. Bloss explained to the committee that this condo project was actually approved approximately one year ago and in November of 2005 an extension was filed. The final finally came in and the Town of Minocqua signed off on it and there was a minor change from the preliminary in that Units 1 & 2 now have a boundary and the initial map did not have that noted.

MOTION: (Scott Holewinski/Frank Greb) to approve the condominium conversion as amended April 7, 2006, Item #9 on today’s agenda. All “aye” on voice vote, motion carries.

10. Discussion/decision concerning a 2 month time extension to file a 3 lot CSM for Tom Hering on property being located in part of the NE NE, Section 19, T39N, R9E, in the Town of Sugar Camp.

Steve Osterman, Planning Manager, stated that this was approved back on November 2, 2005 with a six-month deadline. As of yesterday, May 2, 2006, Mr. Hering, the owner, settled up with the Town Clerk on the Town dedication fees but hasn’t seen a report on this. Mr. Osterman, stated that we were right on the edge whether or not a time extension would be needed. Mr.

Osterman stated that as soon as proof is received showing that they paid it would be ready to go.

MOTION: (Scott Holewinski/Frank Greb) to approve the two month time extension for Tom Hering, Item #10 on today's agenda. All "aye" on voice vote, motion carries.

11. Discussion/decision involving the preliminary 5-lot subdivision of Ken Kirker for property described as the NW SE, Section 11, T37N, R8E, in the Town of Pine Lake, PIN# PL 77. This is an access review only.

Steve Osterman, Planning Manager, presented this to the committee and explained that Mr. Kirker owned the home on Lot 1. Mr. Osterman explained that because all the lots are over five acres in size, so therefore, only the access is reviewed. There is an existing 20' wide easement running along the proposed lot lines. Intention is to widen this easement out to 66' wide. There will be a cult-de-sac at the end of Skunk Creek, which will be voted upon at the next Town of Pine Lake Town Board meeting. (Mr. Kirker stated that the Town of Board would be voting on the width of the cult-de-sac to be 50' instead of the 45' submitted prior) The Town of Pine Lake and Planning Commission have approved the 5-lot subdivision.

Staff recommends approval:

1. Statement on the final map that the Town nor County are responsible for maintenance of the road
2. A formal recorded maintenance agreement by each landowner concerning easement issues
3. Land Information Office to be contacted for proper addressing for 911 and a fire number.

MOTION: (Frank Greb/Larry Greschner) to approve the preliminary 5-lot subdivision of Ken Kirker for properties in the Town of Pine Lake, Item #11 on today's agenda with any concerns of staff. All "aye" on voice vote, motion carries.

12. Discussion/decision involving Ordinance Amendment #01-2006 authored by the Planning & Zoning Committee to eliminate Section 9.98 entirely and amend Section 9.94 & 9.99 of the Oneida County Zoning & Shoreland Protection Ordinance. A public hearing was held March 15, 2006 on this item.

Mr. Jennrich stated that this was set to go to the County Board to be signed by the previously committee to forward on Ordinance Amendment #01-2006. This was tabled at the last committee meeting. This is the pier ordinance. Mr. Jennrich went on to say that a motion was made to send it on to the County Board, but the resolution, which was signed, just deleted 9.98, the Pier Ordinance. There were other provisions, which were taken to the public hearing, which were modifications to Section 9.94 and 9.99, which were not in the resolution going to the County Board floor.

Chair Metropulos stated that the Senate had turned down the pier ordinance and now this is going back into the DNR hands.

Scott Holwinski, "The governor is going to veto -----."

Chair Metropulos, "It was passed and now it goes to the governor and he is going to veto it." "I found out that when the State gets involved in some of these things and the legislature, it seems

to lien toward people in the Southern area.” “They don’t have any lakes down there, but there are a few major ones, Lake Geneva, Green Lake, Lake Michigan of course.” “But we’re talking up here, I don’t want to be redundant, but just in our Town of Newbold alone, we have approximately 100 square miles of lakes and 137 lakes in the Town of Newbold alone.” “To me this is quite a serious situation and I talked to the staff and they feel that the pier ordinance has been working up to this point.”

Mr. Jennrich, “Well, my last comments to the previous committee was that we haven’t had that many enforcement cases, maybe a half dozen cases a year and it has worked out well, at least with the condominium projects because at least the applicant has come to the P & Z Department and if they comply with our ordinance they have clear sailing with any DNR regulations.” “Our pier ordinance is very close to the DNR’s pier planner.”

Mr. Larry Greschner, “In vetoing the latest pier regulation, I know the governor is directing the DNR to come up with a new policy.” “I really think we should leave well enough alone at the moment and keep the County ordinance enforced until all this is settled.”

MOTION: (Larry Greschner/Bob Metropulos) to rescind any previous actions of eliminating 9.98 entirely and to leave the County ordinance in place at this time.

Chair Metropulos asks for a vote. Chair Metropulos asks a second time for a vote. No one comes forward.

More discussion took place.

Mr. Frank Greb would like to see the differences between the DNR pier ordinance and Oneida County’s pier ordinance prior to making any further action.

Scott Holewinski, “I thought we had this discussion.” “Well the thing is that this is double jurisdiction. “Our’s (the County’s) ends at the edge of the water and the DNR controls the piers.” “If the DNR is overseeing everything from the OHWM, let them oversee it.” “Our jurisdiction ends at the edge of the water, the DNR has it from there out.”

Chair Metropulos, “You would think that the County would want to regulate Oneida County’s piers.”

Mr. Jennrich will get the specifics of what the DNR pier regulations are for the committee to review.

Roll Call Vote: Larry Greschner “aye”, Bob Metropulos “aye”, Scott Holewinski “naye”, Frank Greb “naye”. Motion Fails.

13. Discussion/decision involving Ordinance Amendment #02-2006 authored by the Planning & Zoning Committee to amend Section 9.94 & 9.96 of the Oneida County Zoning & Shoreland Protection Ordinance. A public hearing was held March 15, 2006 on this item.

Mr. Jennrich explained that this ordinance was before the previous committee. The ordinance was sent to Larry Heath, Corporation Counsel, and he had some concerns with the ordinance and instead of amending at the County Board floor, Mr. Jennrich pulled the ordinance.

Mr. Pete Wegner sent out a memo to the P & Z Committee summarizing some of the requests made at the previous Planning & Zoning meeting and what some of the language looks like now taking in consideration Mr. Heath's comments.

Mr. Wegner went on to say that the P & Z Committee should have received an email on Tuesday, May 2, 2006 highlighting the events. The motion at the last P & Z meeting was that Pete Wegner send a letter to the DNR, but prior to doing that Mr. Wegner put a timeline together to point out a few things to the committee and sum up what it means. EXHIBIT #1

On December the P & Z Department, by a memo, posed a question to Mr. Tom Blake, DNR, asking him as it relates to the GUARD Bill and being able to have two hundred square feet of open deck or patio, can we exclude that part of a principal building that is placed less than seventy-five feet through averaging. Therefore, we are not counting against the two hundred square feet that is permitted. A memo sent to Mr. Larry Heath posed the same question and his response was that he felt that it was contrary to 59.69. The committee then drafted some language, which would allow the exclusion of that portion of a structure that was set through averaging and then that portion of a structure that was legal pre-existing, language was put together to exclude that square footage from the two hundred square feet which is permitted.

On March 10, 2006, Mr. Wegner received some verbal comments during a telephone conversation with Mr. Tom Blake telling the P & Z Department to be more specific in the language and instead of saying, "within the shoreland setback area" stating that the department should actually put this language in "legal pre-existing structures or structures that were allowed to be averaged."

Basically, a letter dated March 14, 2006 was received from the DNR stating some concerns, one of which was that it being contrary to 59.69 but that concern was only related to the language on the vegetation protection area. As a result, the department made all the recommendations that the DNR asked in this letter, along with going back to the 70% type language addressing the mitigation. This then was in a resolution form and Mr. Jennrich was putting a memo to be sent to the County Board along with the resolution to keep everyone on the same page, as far as the history of this and why we are making the change and what brought it to the table. Mr. Jennrich then received a response from Mr. Heath requesting that written approval be obtained from the DNR. Mr. Heath also brought up a discrepancy in the language, which is back to the 70% versus just by saying a 35' buffer zone and Mr. Wegner told Mr. Heath that that has been 1999 and that the change had already been made. Then Mr. Heath recommended that the P & Z Department notify the County Board Supervisors that parts of the language came about because of one case.

In response to these three things, the department felt that they had written response from the DNR March 14th 2006 letter, made the changes to get rid of the discrepancy and as far as being just for one person, (and Karl put it in a memo to Mr. Heath earlier) because we got rid of averaging of decks because of language change. You can replace an open deck at 40 to 75' and sometimes add on additional square footage. Because of these factors, a change was necessary.

Mr. Wegner asks the committee to consider that the committee made all the changes that were suggested by the DNR and that it is understood that counsel feels that the proposed language is contrary to 59.69. Staff believes that it may be contrary, but it's contrary to the exclusion of a driveway. Also, Mr. Heath's response of April 11th was sent to Chairman Andrew Smith and to Tom Blake, DNR and to Mary Ellen Volbrook and as of today's date no additional correspondence has been received from the DNR regarding these concerns.

Mr. Heath suggested draft language to be put into #02-2006 Ordinance-Sec. 9.94 & 9.96, after the word "and driveways" not to include boat ramps necessary by the department should be included (Line #58)

Mr. Jennrich, "Counsel is recommending on Line 58, that highlighted language be inserted "not including boat ramps by the department" to be added." "If this committee wants to send this forward you would need a motion, at least, to make amendments to include the highlighted language."

MOTION: (Scott Holewinski/Larry Greschner) to approve Ordinance Amendment #02-2006 with the highlighted on Lines 58 and 59 to be added and forward on to County Board. All "aye" on voice vote, motion carries.

14. Discussion/decision concerning prioritization of Ordinance Amendments.

Mr. Jennrich handed out to the committee a list of ordinances that the department is working on.

Chair Bob Metropulos, "Scott, you've been saying that we should start working on the Sub-division ordinance and I think it's important but I also think it's important to give the rest of the ordinances a "rest". "I'm thinking that we are going to get real busy over the next three, four months and if we could leave the ordinance rest a while and work on Number 1, which I think is the sub-division ordinance and get back into the meat of things in October and November." "It's just a suggestion." "There have been a lot of changes and maybe as things go on----."

Scott Holewinski, "If we know that there are things which have to be changed or corrected, why would we just put them on hold?" "We know that there are problems with retaining walls and why wouldn't we continue to solve that problem?"

Mr. Jennrich, "With all the ordinance amendments, I am having a hard time keeping above water."

Committee reviewed the list of ordinance amendments.

Scott Holewinski suggests that each member review and prioritize and bring back for the next meeting scheduled for Wednesday May 17, 2006.

The committee signed the resolution for Chapter 13, POWTS and this will be forwarded on to the Full County Board for their next meeting scheduled for Tuesday May 16, 2006.

15. Discussion/decision concerning Section 9.73 Overlay Districts in the Oneida County Zoning & Shoreland Protection Ordinance. Verbal request from David Schmitz to allow for alternative location for replacement trailer within Overlay district #4 in the Town of Newbold.

Mr. Jennrich stated that this went to County Board and was defeated and sent back to the Planning & Zoning Committee.

Staff came up with language not to get rid of the overlay district concept, but just to add some things to clarify for staff.

Mr. Jennrich, "Dave Schmitz received a waiver from the Town of Newbold to put replace a mobile home with another mobile home (overlay district #1)." "Mr. Schmitz came to the P & Z

Department requesting to move the location of the new mobile home.” Mr. Jennrich said, “No, because the language doesn’t allow it.” “I don’t believe that there is any “wiggle” room.”

Mr. David Schmitz, “This is more a Town of Newbold request then me.” “Me and my neighbors went in and asked for an area change for a specific forty (acreage).”

Chair Metropulos, “Let me correct you, this is not a Town of Newbold request, this is David Schmitz request for moving the trailer.”

Mr. Schmitz, “But Bob, my original request to the Town of Newbold was a rezone along with all my neighbors in this forty.” “Everybody that owns property in this forty agreed to it and everybody adjoining this property agreed to it and the people that live in this forty live in these type of houses (trailer houses) and the Town of Newbold Planning Commission recommended that we come to the County and get some type of waiver so I can locate my trailer house not up by the road but back here.” (Mr. Schmitz points on a map) “And I told them, I don’t think it’s going to work, but they insisted that the Planning and Zoning Committee make a decision on this.” “That is why I’m here.”

Chair Metropulos, “This is absolutely wrong, what he is saying.” “Let me explain the situation.” “Dave Schmitz came in for a rezone and the Town of Newbold turned it down.” “He was given reconsideration on the rezone and that was turned down.” “He was told that we (Town of Newbold) would send a letter to the County stating that we didn’t mind moving it back, but we didn’t feel that a whole forty should be changed basically for one individual.” “Then, before the Town could get a letter out, Mr. Schmitz came to the Planning & Zoning department for a denial.” “Then he came back again and asked the Town of Newbold to send a letter and our Chair did send a letter and he’s here again.”

Mr. Jennrich, “When you change an overlay district, the way that it was adopted is that an overlay district change shall be treated just as a rezone.” “So again, based on that language, I think that Mr. Schmitz has the ability to apply for an overlay district change to the County and we would take it through a rezone process just like anyone else.”

Scott Holewinski, “Right, and with rezone petitions, if the town is against it, it normally won’t go through.”

More discussion took place.

Mr. Schmitz, “Some of the Planning Commission members felt that some type of exception could be granted for Mr. Schmitz to locate the house in a different location.”

Mr. Frank Greb, “I guess I have a problem.” “We let you replace a trailer or whatever it is if it is destroyed but it has to be on the same footprint?”

Mr. Jennrich, “Yes.”

Mr. Greb, “Putting it back from the road would improve everybody’s -----.”

Committee agrees.

Mr. Jennrich, “If the committee wants to take a look at 9.73 again when it will be discussed again, that is one of the things you as a committee can review and change because again there

have been some concerns by counsel that 9.73 e – given the town even a digression, is arbitrary.” “We should just let him replace it, if they want to replace it.”

Mr. Greb, “I guess I have a couple problems here, reading this section, “the replacement structure would have to be the same square footage or larger, location, construction, etc., but it can’t be the same if it can be larger.” “And what is the definition of “location”?” “Give me a definition of location.”

Mr. Jennrich, “I don’t think I view location as the same piece of property.” “I think that it would have to be the same spot.”

Mr. Greb, “It doesn’t say same footprint.”

Mr. Greschner, “Location could be within the boundaries of this property.”

Mr. Greb, “Well you can’t put it on the footprint if it’s bigger.”

Mr. Greb asks that this be held over until May 17, 2006, the next P & Z Committee scheduled meeting date.

MOTION: (Larry Greschner/Frank Greb) to hold this over and table Item #15 until May 17, 2006. All “aye” on voice vote. Motion carries.

Committee recessed for the Public Hearing – 2:25 P.M.

Committee reconvened to continue with the Regular Meeting – 4:36 P.M.

16. Discussion/decision concerning amendments to Section 9.55 Adult Oriented Business Ordinance in the Oneida County Zoning & Shoreland Protection Ordinance.

This will be placed on the next P & Z Committee meeting scheduled for May 17, 2006.

17. Discussion/decision concerning boathouses and retaining walls. – **Tabled for a future agenda.**

18. Discussion/decision involving amendments to Section 9.93 Lot Size Based on Waterway Classification of the Oneida County Zoning & Shoreland Protection Ordinance.

Mr. Jennrich explained to the committee that the department ran into some condominium projects regarding this ordinance. Chapter 9 treats lots created prior to May 19, 1999 differently than after May 19, 1999. If you have a lot created prior to this date, if you’re zoned recreational, you only need one hundred of frontage plus a density multiplier, so you need land instead of frontage. EXHIBIT #2

The staff and committee will continue working on this ordinance.

19. Departmental operations/activities & status.

The posting of the Permit Specialist came down and the department may be interviewing someone from in house, not from the P & Z Department but from another department. The department’s intent is to bring down Marie Zunker from the Minocqua P & Z office down to the Rhinelander office.

20. Discussion/decision of line item transfers, refunds, purchase orders and bills.

Karl Jennrich, Zoning Director, noted the following Submittals for Payment (Exhibit #3) Blank Purchase Orders \$3553.53 and Mileage for \$886.91.

MOTION: (Scott Holewinski/Frank Greb) to approve the Blank Purchase Orders and bills as presented. All “aye” on voice vote. Motion carries.

21. Discussion/action concerning pending Ordinance Amendment and/or Resolution proposals scheduled for the County Board of Supervisors.

Mr. Jennrich explained that there was a rezone request in the town of Lake Tomahawk regarding the David Farb #34-2005 rezone. The Planning & Zoning Committee denied the rezone request.

MOTION: (Frank Greb/Scott Holewinski) to approve resolution and forward to the Full County Board. All “aye” on voice vote. Motion carries.

Mr. Jennrich explained that the next resolution is in regards to Chapter 13, POWTS, Private Sewage System. Mr. Jennrich gave a brief update to the committee regarding this ordinance.

MOTION: (Larry Greschner/Scott Holewinski) to approve resolution and forward to the Full County Board. All “aye” on voice vote. Motion carries.

22. Communications.

Mr. Jennrich went to the Town of Minocqua on Tuesday (May 2nd 2006) evening at the request of Mr. Handrick. The Town of Minocqua had some concerns regarding the RAR rezone and somehow the Town wants to know how the county could do a better job in notifying homeowners prior to the town board meeting on these issues. Theoretically, the county would do the publication notification of neighbors on behalf of the town. The Town of Minocqua made a policy that they would have it looked at by the Planning Commission, put it on a future town agenda and hold it over for a second meeting. Basically this would be for a month for rezone petitions for people to comment. Between the first meeting and second meeting Mr. Jennrich would send out the notice of public hearing.

Scott Holewinski, “I don’t think that it is up to the County to tell each town how to notify the people.”

Mr. Greschner, “Anything of that magnitude, and I told Joe Handrick this, is that we have a public informational meeting and we do send out letters, not certified, but to the people involved.”

Mr. Jennrich, “I heard from Steve Osterman that the Dunbar CUP is going to be appealed and we may get that on Friday, May 5, 2006.” “Also, I will probably request that a closed session be put on the next meeting regarding performance evaluations.”

23. Public comments. - **None**

24. Discussion/decision regarding future agenda items.

a. Discussion/decision – Anonymous telephone call complaints

25. Adjourn.

5:07 PM There being no further matters to lawfully come before the Committee, a motion was made by Frank Greb, second by Larry Greschner to adjourn the meeting. With all members present voting "aye", the motion carried.

Chairman Bob Metropolis

Karl Jennrich
Zoning Director